Supreme Court, U. S.
FILED
FEB 23 1976
MICHAEL RODAK, JR., CLERK

NO. 75-1210

IN THE

Supreme Court of the United States

JAMES H. QUARLES, Individually and as Trustee for the Estate of James H. Quarles, ~~E. A. HYLAND, Individually and as Trustee, and LAWYERS SURETY CORPORATION~~, *Appellants*

v.

J. C. GOODSON, also sometimes known as JACK C. GOODSON and wife, FANNIE MAE GOODSON, MRS. E. A. BIGGERS, D/B/A E. A. BIGGERS REAL ESTATE, GEORGE N. ST. CLAIR, and AMERICAN TITLE COMPANY, *Appellees*

Appeal from Order of the Supreme Court of Texas, Judgment of the 14th Court of Appeals of Texas, and Judgment of the 152nd Judicial District Court of Texas

APPEAL And APPLICATION FOR WRIT OF CERTIORARI

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NO. _____

IN THE

Supreme Court of the United States

JAMES H. QUARLES, Individually and as Trustee for the Estate of James H. Quarles, E. A. HYLAND, Individually and as Trustee, and LAWYERS SURETY CORPORATION, *Appellants*

v.

J. C. GOODSON, also sometimes known as JACK C. GOODSON and wife, FANNIE MAE GOODSON, MRS. E. A. BIGGERS, D/B/A E. A. BIGGERS REAL ESTATE, GEORGE N. ST. CLAIR, and AMERICAN TITLE COMPANY, *Appellees*

Appeal from Order of the Supreme Court of Texas, Judgment of the 14th Court of Appeals of Texas, and Judgment of the 152nd Judicial District Court of Texas

APPEAL And APPLICATION FOR WRIT OF CERTIORARI

PROCEEDINGS AND STATEMENT OF REPORTS

To The Honorable United States Supreme Court:

On the 15th day of October, 1974 the Judge of the 152nd Judicial Court of Texas withdrew case No. 865,598 from the jury and rendered judgment for the Appellees to which action Appellants objected and made a bill of exception. On the 12th day of November, 1974, Judge

John Snell, Jr. signed and entered judgment against the Appellants to which the Appellants filed his bill of exceptions to the judgment rendered by the court. Appeal was perfected to the Court of Civil Appeals for the 14th District of Texas, Case No. 1164. A decision was reached and judgment and opinion was filed on the 25th day of June, 1975. Again Appellants perfected appeal, this time to the Supreme Court of Texas Case No. B5489, the highest court in the state of Texas being the court of last resort in the state for the Appellants. On the 1st day of October, 1975, Application for Writ of Error was refused. Motion for rehearing was filed by Appellants and was over-ruled by the Court on the 29th day of October, 1975. On the 10th day of October, 1975, application to stay mandate and notice of appeal to the United States Supreme Court with the 14th Court of Civil Appeals. Appended hereto are the opinions delivered upon rendering of judgments as required by Supreme Court Rule 15A.

JURISDICTIONAL STATEMENT

The Supreme Court of the United States has jurisdiction under 28 U.S.C.A. 2101, paragraph C; 28 U.S.C.A. 2104; 28 U.S.C.A. 1257; and Article III, Sec. II of the United States Constitution, it being a well settled rule that the U.S. Supreme Court has jurisdiction over constitutional question.

The case is one of contract between Appellant Quarles and Appellees Goodsons and also Quarles and Hyland.

Appellants are seeking a review by the Supreme Court of the United States on order of the Supreme Court of Texas rendered on the 1st day of October, 1975 and order over-ruling Motion for Rehearing rendered on the 29th day of October, 1975, the judgment of the 14th Court

of Civil Appeals of Texas rendered on the 25th day of June, 1975, and the final judgment of the 152nd District Court of Texas entered on the 12th day of November, 1974.

Application to stay mandate coupled with notice of appeal was filed at the directive of Garson R. Jackson, Clerk of the Supreme Court of Texas in the 14th Court of Civil Appeals of Texas on the ~~10th~~ 31st day of October, 1975.

Statutory provisions conferring on the Court jurisdiction of this appeal is 28 U.S.C.A. 2101, 28 U.S.C.A. 2104, and 28 U.S.C.A. 1257 as well as the United States Constitution Article III, Sec. II and Amendments V and XIV of the United States Constitution and sustained by *United States of America v. Bernard E. Meyer,* 462 F.2d 827, 346 Fed. Supp. 973.

Appellants contend that:

a. They were denied a fair and impartial trial.

b. They were denied Due Process.

c. They were denied a jury trial.

which Appellants submit to the Honorable United States Supreme Court and its panel of justices for its opinion and ruling.

STATEMENT OF THE CASE

The case is one of contract between Appellant Quarles and Appellees J. C. Goodson and wife, Fannie Mae Goodson and also between Appellant Quarles and Hyland. On the 10th day of April 1970 Appellant Quarles along with one Velma Ray Pendleton as Trustees for the Estate of James H. Quarles, entered into a written contract with Mrs. E. A. Biggers, D/B/A E. A. Biggers, Real Estate

as agent for and in behalf of the Appellees Goodson, depositing with said agent Five Hundred Dollars earnest money (See transcript pages 54 and 55) said contract was approved and executed by the Appellees Goodsons on the 23rd day of April, 1970 and thereafter placed of record in the office of the County Clerk by Appellant Quarles. Appellees Goodsons failed or refused to deliver a General Warranty Deed as contracted because of a title difficulty; where as, Appellant Quarles entered into a second agreement with agent Biggers whereby Appellant Quarles would purchase the tract of land owned by the Goodsons for a price of Twenty-one Thousand Dollars, instead of the Eighteen Thousand Dollars cash as first contracted to between Quarles and Pendleton as Trustees and Appellees Goodsons. There was a consideration of Five Thousand Dollars cash to be paid by Velma Ray Pendleton in return for a concurrent lien with the Goodsons on the tract of land being purchased by Appellants; as further consideration Appellant Quarles as Trustee delivered to agent Biggers promissory notes in the aggregate sum of Twenty-one Thousand Dollars bearing interest of 8% to secure the Goodsons and Pendleton payment, said notes were secured with the land to be purchased by Appellant Quarles; said notes were payable annually at Twelve Hundred Dollars plus all accumulated interest. Still no deed was ever presented to Appellant Quarles nor the promissory notes returned. Agent Biggers accepted an additional contract from George N. St. Clair on the purchase of the same tract of land with full knowledge by St. Clair of Appellant's rights to the land. Appellee St. Clair proceeded to bulldoze all trees from the soil. Shortly afterwards suit was commenced by Appellees Goodsons against Appellant Quarles and approximately three weeks before trial Appellant Hyland was made a

defendant by Appellees Goodsons. Suit was to remove cloud from the title of the land. Appellant responded with a cross-action for specific performance and damages. Appellant Quarles conveyed his prospective title to the land to E. A. Hyland (See transcript, pages 53 and 54) upon certain conditions. Appellee American Title Company fraudulently secured a release from Velma Ray Pendleton (see transcript, pages 56, 57, and 58) on behalf of J. C. Goodson and wife, Fannie Mae Goodson, Mrs. E. A. Biggers, D/B/A E. A. Biggers Real Estate, and George N. St. Clair.

On March 6, 1974 Appellant Quarles paid a jury fee and demanded a trial by jury and on the 14th day of October, 1974 announced ready for trial. The docket clerk was requested by Judge John Snell, Jr. to assign the case to his, the 152nd Judicial District Court of Texas. A jury was empaneled to hear the case, but was denied the obligation to render its decision by Judge Snell, who had shown by his actions and remarks to Appellants Quarles and Hyland to be prejudiced and biased. Judge Snell refused to permit Appellant Hyland any opportunity to redress and further denied him the right to sit at the counsel table during the trial. A Statement of Facts was denied Appellant Quarles which would have substantiated the charge of prejudice by Judge Snell against Appellants and his tendency without justification to do bidding as requested by the Appellees' counsel.

During the trial of the case in the 152nd District Court, the Appellee American Title Company took no part therein nor did they submit any evidence whatsoever, pro or con, and furthermore never even appeared in the case during the trial, but was entered in the judgment rendered by Judge John Snell.

Appellants do not intend to burden this Honorable Court with scurrilous remarks about the fitness of a Judge to preside over this or any other case, but Appellants do question Judge John Snell, Jr.'s ability to judge this case in his prejudiced state of mind against these Appellants. He continuously refused to make reply to demand for finding of facts, and to therefore render due process, guaranteed by the Fifth and Fourteen amendments to the Constitution of the United States of America. Appellants further question the action of the 14th Court of Civil Appeals and also the Supreme Court of Texas to insert in their judgments and orders the liability of Lawyers Surety Corporation when no question was ever raised by Appellants or Appellees as to said liability, it being the duty of the appellate courts to interpret the law and not to make it.

STATEMENT OF JURISDICTION

The United States Supreme Court has jurisdiction of this case under 28 U.S.C.A. 1257.

POINTS OF ERROR

a. **The denial of a fair and impartial trial to the appellants as guaranteed by the Fifth and Fourteenth amendments and other Articles of the United States Constitution.**

b. **The denial to Appellants due process as guaranteed by the Fifth and Fourteenth amendments and various other Articles of the United States Constitution.**

c. **The denial to Appellants the right to have their case decided by a jury and the right to their property as guaranteed by the Seventh amendment of the Constitution of the United States.**

ARGUMENT

Appellants entered into a contract to purchase a tract of land supposedly owned by J. C. Goodson and wife, Fannie Mae Goodson, in good faith and placed with their agent Five Hundred Dollars cash as part payment for the tract of land (See transcript pages 54 and 55) but because of the Titie difficulty as to the restrictions set in the deed to one J. C. Goodson, a second agreement was entered into with the Goodsons to purchase the land and promissory notes were delivered to their agent, Mrs. E. A. Biggers as agreed (See transcript page 73). No deed was ever furnished Appellants. Instead, the Appellees' agent entered into another contract (See transcript page 74) and then used the Texas Courts to deprive the Appellants of rights guaranteed by the Seventh Amendment of the United States Constitution and other rights set out by the constitution.

The facts are clearly set out by the Appellants that they were denied a fair and impartial trial, due process, and a jury decision or trial as guaranteed by the Fifth and Fourteenth amendments of the Constitution of the United States.

CONCLUSION

The authorities and cases in this brief substantiate the claims herein set out and the 152nd District Court of Texas, the 14th Court of Civil Appeals, and the Supreme Court of Texas are in error and for the reasons stated the judgments should be reversed in every respect and judgment rendered for the Appellants. Appellants would also ask for such other and further relief to Appellants

are entitled and for all of which Appellants respectfully pray.

Respectfully submitted,

By: _____

JAMES H. QUARLES, Trustee
Post Office Box 52009
Houston, Texas 77052
Attorney for Appellants

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was mailed by United States mail, postage prepaid, addressed to the following individuals at the address following each of their respective names:

Mr. T. Turner Pope
Kamp, Laswell & Pope
2935 Entex Building
Houston, Texas 77002

Mr. John T. McKeller
2626 Westheimer
Houston, Texas 77006

Mr. Sim Lake
Fulbright and Jaworski
Bank of the Southwest Bldg.
Houston, Texas 77002

Mr. David N. Gray
1453 Esperson Bldg.
Houston, Texas 77002

on this _____ day of February, 1976.

_____

JAMES H. QUARLES, Trustee
Attorney for Appellants

APPENDIX A

IN THE
SUPREME COURT OF TEXAS

_____

October 1, 1975

No. B-5489

JAMES H. QUARLES ET AL.

v.

J. C. GOODSON ET AL.

From HARRIS County,
FOURTEENTH District.

Application of petitioners for writ of error to the Court of Civil Appeals for the Fourteenth Supreme Judicial District having been duly considered, and the Court having determined that the application presents no error requiring reversal of the judgment of the Court of Civil Appeals, it is ordered that said application be, and hereby is, refused.

It is further ordered that applicants, James H. Quarles et al., and their surety, Lawyers Surety Corporation, pay all costs incurred on this application.

_____

October 29, 1975

No. B-5489

JAMES H. QUARLES ET AL.

v.

J. C. GOODSON ET AL.

From HARRIS County,

FOURTEENTH District.

Petitioners' motion for rehearing of application for writ of error having been duly considered, it is ordered that said motion be, and hereby is, overruled.

I, GARSON R. JACKSON, Clerk of the Supreme Court of Texas, do hereby certify that the above and foregoing is a true and correct copy of the orders of the Supreme Court of Texas in the case numbered and styled as above, as the same appears of record in the minutes of said Court under the dates shown.

WITNESS my hand and seal of the Supreme Court of Texas, at the City of Austin, this, the 9th day of November, 1975.

GARSON R. JACKSON, Clerk

By /s/ MARY M. WAKEFIELD
Deputy

No. B-5489

IN THE
SUPREME COURT OF TEXAS

JAMES H. QUARLES ET AL.

v.

J. C. GOODSON ET AL.

Certified copy of Order of the Supreme Court of Texas.
(Application for Writ of Error REFUSED—N.R.E.)

THE STATE OF TEXAS §
COUNTY OF HARRIS §

I, THELMA MUELLER, Clerk of the Court of Civil Appeals, Fourteenth Supreme Judicial District of Texas, at Houston, do hereby certify that the preceding 2 pages contain a true and correct copy of order from Supreme Court in Cause No. 1164, JAMES H. QUARLES, ET AL, Appellants v. J. C. GOODSON, ET AL, Appellees from Harris County, and now on file in my office.

TO CERTIFY WHICH, I hereunto set my hand and affix the Seal of Said Court, at Houston, this the 23rd day of December, A.D. 1975.

/s/ THELMA MUELLER
Clerk

By_____
Deputy

APPENDIX B

IN THE
COURT OF CIVIL APPEALS
For The Fourteenth Judicial District

Affirmed, and Opinion filed June 25, 1975

NO. 1164

JAMES H. QUARLES, ET AL, Appellants
v.
J. C. GOODSON, ET AL, Appellees

Appeal from 152nd District Court of Harris County

James H. Quarles, individually and as trustee for the Estate of James H. Quarles (appellants), perfected appeal after a final judgment against him, in both capacities, in a trespass to try title case. Appellants, defendants and cross-plaintiffs below, were also specifically denied relief sought by way of cross-actions. A transcript was filed, but there is no statement of facts before us. Neither have any briefs been filed. American Title Company, one of the appellees, has filed a motion to dismiss the appeal under TEX. R. CIV. P. 415. J. C. Goodson and his wife (appellees) have filed a motion to affirm the judgment of the trial court also under TEX. R. CIV. P. 415. This latter motion was joined in by the remaining appellees, Mrs. E. A. Biggers and George St. Clair.

Under TEX. R. CIV. P. 415, we have the authority to dismiss the appeal for want of prosecution where good

cause is not shown for failure to file a brief. Lueck v. Carter, 466 S.W.2d 90 (Tex. Civ. App.—Fort Worth 1971, no writ). Rule 415 also gives this Court the discretion to decline to dismiss the appeal and to "give such direction to the cause as it may deem proper."

It has been long held that if the ends of justice would be better served and inspection of the record discloses no fundamental error, then this Court should affirm the judgment. Haynes v. J. M. Radford Grocery Co., 14 S.W.2d 811 (Tex. Comm'n App. 1929, opinion adopted); Davidson v. Butler, 519 S.W.2d 511 (Tex. Civ. App.—Fort Worth 1975, no writ); Turner v. State, 508 S.W.2d 861 (Tex. Civ. App.—Fort Worth 1974, no writ); *see* Hill v. McDaniel, 129 S.W.2d 321 (Tex. Civ. App.—Eastland 1939, writ ref'd).

Examination of the record does not disclose any fundamental error. We are of the belief that the interests of justice would be better served by affirmance rather than dismissal of the appeal.

We therefore, overrule the motion to dismiss the appeal and instead grant the motion to affirm the trial court judgment. All costs of the appeal are taxed against the appellants.

Affirmed.

/s/ CURTISS BROWN
Curtiss Brown
Associate Justice

No publication—Rule 452.

THE STATE OF TEXAS §
COUNTY OF HARRIS §

I, THELMA MUELLER, Clerk of the Court of Civil Appeals, Fourteenth Supreme Judicial District of Texas, at Houston, do hereby certify that the preceding 2 pages contain a true and correct copy of Court's Opinion rendered June 25, 1975, in Cause No. 1164, JAMES H. QUARLES, ET AL, Appellants v. J. C. GOODSON, ET AL, Appellees from Harris County, and now on file in my office.

TO CERTIFY WHICH, I hereunto set my hand and affix the Seal of Said Court, at Houston, this the 21st day of January, A.D. 1976.

/s/ THELMA MUELLER
Clerk

By _____
Deputy

APPENDIX C

IN THE
COURT OF CIVIL APPEALS
For The Fourteenth Judicial District

JUDGMENT

NO. 1164

JAMES H. QUARLES, ET AL
v.
J. C. GOODSON, ET AL

"On this day came on to be heard appellee's (American Title Company) motion to dismiss this appeal pursuant to Rule 415 Texas Rules of Civil Procedure; appellees' (J. C. Goodson and wife, Fannie Mae Goodson) motion to affirm pursuant to Rule 415 Texas Rules of Civil Procedure; appellee's (George St. Clair) supporting motion pursuant to Rule 415, and appellee's (Mrs. E. A. Biggers) motion pursuant to Rule 415, and it appearing to the Court that the transcript in this cause was filed February 21, 1975; that appellants' third motion to extend time to file statement of facts was denied by this Court on May 21, 1975; that appellant has not timely filed a brief nor a motion for an extension of time in which to file a brief, it is therefore considered, adjudged and ordered that the motion to dismiss the appeal be overruled and the judgment of the trial court be and the same hereby is affirmed in all things. It is further ordered that the appellants, James H. Quarles, et al, and their surety, Lawyers Surety Corporation, pay all costs incurred by reason of this appeal. It is further ordered that this decision be certified below for observance."

THE STATE OF TEXAS §
COUNTY OF HARRIS §

I, THELMA MUELLER, Clerk of the Court of Civil Appeals, Fourteenth Supreme Judicial District of Texas, at Houston, do hereby certify that the preceding 1 page contain a true and correct copy of judgment rendered June 25, 1975, in Cause No. 1164, JAMES H. QUARLES, ET AL, Appellants v. J. C. GOODSON, ET AL, Appellees, from Harris County, and now on file in my office.

TO CERTIFY WHICH, I hereunto set my hand and affix the Seal of Said Court, at Houston, this the 21st day of January, A.D. 1976.

/s/ THELMA MUELLER
Clerk

By _____

APPENDIX D

IN THE
COURT OF CIVIL APPEALS
For The Fourteenth Judicial District

DOCKET SHEET

BE IT REMEMBERED:

THAT at the term of the Honorable Court of Civil Appeals for the Fourteenth Supreme Judicial District of the State of Texas, begun and holden at Houston on the 1st Monday of October, A.D., 1974, present BERT H. TUNKS, Chief Justice, and Associate Justices, Edward D. Coulson and Curtiss Brown.

In the cause

NO. 1164

JAMES H. QUARLES, ET AL., Appellants

v.

J. C. GOODSON, ET AL., Appellees

From Harris County
Trial Court No. 865,598
Opinion by Curtiss Brown, AJ

the following orders were entered:

On March 12, 1975:

"It is ordered that appellant's motion to extend time to file statement of facts herein be granted; time is extended to and including April 28, 1975."

"Appellant's motion to order original depositions filed in court below given by James H. Quarles to be filed in this Court is denied."

On May 7, 1975:

"It is ordered that appellants' second motion to extend time to file statement of facts be granted; time is extended to and including May 13, 1975."

On May 21, 1975:

"It is ordered that appellants' third motion to extend time to file statement of facts and application for writ of mandamus be denied."

On June 11, 1975:

"It is ordered that appellants' motion for rehearing on appellants' third motion to extend time to file statement of facts be overruled."

On July 16, 1975:

"It is ordered that appellants' motion for rehearing be overruled."

APPENDIX E

IN THE
COURT OF CIVIL APPEALS
For The Fourteenth Judicial District

DOCKET SHEET

BE IT REMEMBERED:

THAT at the term of the Honorable Court of Civil Appeals for the Fourteenth Supreme Judicial District of the State of Texas, begun and holden at Houston on the 1st Monday of October, A.D., 1975, present BERT H. TUNKS, Chief Justice, and Associate Justices, Edward D. Coulson and Curtiss Brown.

In the cause

No. 1164

JAMES H. QUARLES, ET AL., Appellants

v.

J. C. GOODSON, ET AL., Appellees

From Harris County
Trial Court No. 865,598
Opinion by Curtiss Brown, AJ

the following order was entered on December 10, 1975:

"It is ordered that appellants' motion to stay issuance of mandate be denied."

I, THELMA MUELLER, Clerk of the Court of Civil Appeals for the Fourteenth Supreme Judicial District of Texas, at the City of Houston, hereby certify that the foregoing is a true copy of order entered herein by this Court in the above entitled and numbered cause as appears of record in Minute Book 2, Page 63.

IN WITNESS WHEREOF, I hereunto set my hand and affix the seal of said Court at Houston this 21st day of January A.D., 1976.

/s/ THELMA MUELLER
Clerk

I, THELMA MUELLER, Clerk of the Court of Civil Appeals for the Fourteenth Supreme Judicial District of Texas, at the City of Houston, hereby certify that the foregoing is a true copy of all orders entered herein by this Court in the above entitled and numbered cause as appears of record in Minute Books 1 & 2, Page 631, 4, 9, 15, 27.

IN WITNESS WHEREOF, I hereunto set my hand and affix the seal of said Court at Houston this 21st day of January A.D., 1976.

/s/ THELMA MUELLER
Clerk

APPENDIX F

NO. 865,598

IN THE
DISTRICT COURT OF HARRIS COUNTY, TEXAS
152ND JUDICIAL DISTRICT

J. C. GOODSON, ALSO SOMETIMES KNOWN AS JACK C. GOODSON AND WIFE, FANNIE MAE GOODSON

v.

JAMES H. QUARLES, TRUSTEE FOR THE ESTATE OF JAMES H. QUARLES

FINAL JUDGMENT

BE IT REMEMBERED that on October 14, 1974, the above entitled and numbered case was heard; and thereupon came the plaintiffs and cross-defendants, J. C. Goodson, also sometimes known as Jack C. Goodson, and wife, Fannie Mae Goodson, by and through their attorneys of record; and came defendant and cross-plaintiff, James H. Quarles, individually and as trustee for the Estate of James H. Quarles, pro se; and came defendant, E. A. Hyland, individually and as trustee, pro se; and came cross-defendant, Mrs. E. A. Biggers, by and through her attorney of record; and came cross-defendant, George N. St. Clair, by and through his attorneys of record; and that same day a jury of twelve good and lawful people were elected, impaneled, tested, and sworn; and the parties proceeded to state their positions and to adduce their evidence until all parties announced in open court that they rested. Whereupon, after all parties had rested, plaintiffs and cross-defendants, J. C. Goodson and Fannie Mae Goodson, moved for an instructed verdict, or in the

alternative a directed verdict; and cross-defendant, Mrs. E. A. Biggers, moved for an instructed verdict, or in the alternative a directed verdict; and cross-defendant, George N. St. Clair, moved for an instructed verdict, or in the alternative a directed verdict; and defendant and cross-plaintiff, James H. Quarles, individually and as trustee for the Estate of James H. Quarles, moved for an instructed verdict; and the court, having considered the evidence, the motions, and the arguments of counsel, withdrew the case from the jury and ordered that plaintiffs, J.C. Goodson and wife, Fannie Mae Goodson, do have and recover the relief prayed for in their Second Amended Original Petition against defendants, James H. Quarles, individually and acting as trustee for the Estate of James H. Quarles and E. A. Hyland, individually and as trustee, and further ordered that defendant and cross-plaintiff, James H. Quarles individually and as trustee for the Estate of James H. Quarles, do have and recover nothing of and from cross-defendants, J. C. Goodson, also sometimes known as Jack C. Goodson, and wife Fannie Mae Goodson, Mrs. E. A. Biggers, and George N. St. Clair; and the court having determined that an interlocutory judgment has been entered heretofore on October 10, 1974, in favor of American Title Company and that such judgment should be made final and incorporated herein; and the court having determined that an interlocutory order has been entered heretofore on April 15, 1974, awarding attorney's fees to plaintiffs, J. C. Goodson and Fannie Mae Goodson, and that such order should be made final and incorporated herein; it is, therefore

ORDERED, ADJUDGED AND DECREED:

(1) That plaintiffs, J. C. Goodson, also sometimes known as Jack C. Goodson, and wife, Fannie Mae Good-

son, do have and recover of and from James H. Quarles, individually and as trustee for the Estate of James H. Quarles and E. A. Hyland, individually and as trustee, the title to and possession of the following described land and premises located and being situated in Harris County, Texas, to-wit:

> Lot Eight (8) in Block Three (3) of OLD RIVER TERRACE, SECTION TWO (2), a subdivision in Channelview, Harris County, Texas, according to the map thereof recorded in Volume 14, page 21 of the map records of Harris County, Texas;

(2) That the contract dated April 10, 1970, between Jack C. Goodson and Fannie Mae Goodson, as sellers, and Velma Ray Pendleton, trustee, and James H. Quarles, trustee, as purchasers, recorded in Volume 8067, pages 159 and 160 of the Deed Records of Harris County, Texas, is and the same is hereby declared to be in all things null and void and of no force and effect and that said contract be and the same is hereby cancelled and terminated and that neither defendant, James H. Quarles, individually or as trustee of the Estate of James H. Quarles, nor defendant E. A. Hyland, individually or as trustee, nor the heirs, administrators, successors and assigns of James H. Quarles, individually or as trustee of the Estate of James H. Quarles or E. A. Hyland individually or as trustee, has any right, title or interest of any kind or nature in or to the following described land and premises located and being situated in Harris County, Texas, to-wit:

> Lot Eight (8) in Block Three (3) of OLD RIVER TERRACE, SECTION TWO (2), a subdivision in Channelview, Harris County, Texas, according to the map thereof recorded in Volume 14, page 21 of the map records of Harris County, Texas;

(3) That plaintiffs, J. C. Goodson, also sometimes known as Jack C. Goodson, and wife, Fannie Mae Goodson, do have and recover of and from defendant, James H. Quarles, individually and as trustee of the Estate of James H. Quarles, the amount of Fifty and No/100 Dollars ($50.00) to reimburse them for reasonable costs and attorneys' fees incurred in presenting their Motion to Compel Answers to Written Interrogatories or in the Alternative Motion to Enter Judgment by Default, together with interest at the rate of six percent (6%) per annum on all of said amount from the date hereof until paid;

(4) That defendants and cross-plaintiffs, James H. Quarles, individually and as trustee of the Estate of Quarles, and E. A. Hyland, individually and as trustee, do have and recover nothing of and from cross-defendants, J. C. Goodson, also sometimes known as Jack C. Goodson, and wife, Fannie Mae Goodson, Mrs. E. A. Biggers, and George N. St. Clair, that all relief prayed for by James H. Quarles, individually and as trustee of the Estate of James H. Quarles, and E. A. Hyland, individually and as trustee, against cross-defendants, J. C. Goodson, also sometimes known as Jack C. Goodson, and wife, Fannie Mae Goodson, Mrs. E. A. Biggers, and George N. St. Clair, be and the same is hereby denied;

(5) That American Title Company do have and recover of and from James H. Quarles, individually and as trustee for the Estate of James H. Quarles, the sum of One Thousand Five Hundred and No/100 Dollars ($1,500.00), with interest thereon at the rate of six percent (6%) per annum from date hereof until paid;

(6) That James H. Quarles, individually and as trustee for the Estate of James H. Quarles, shall take nothing against American Title Company by way of any cause of

action or allegation on file herein and set forth in Defendant's and Cross-Plaintiffs' Answer to Plaintiff's Second Amended Original Petition, and American Title Company is hereby dismissed from this cause with prejudice to and against James H. Quarles individually and as trustee for the Estate of James H. Quarles, to file in this or in any other proceeding any cause of action or allegation which is set forth and alleged in his pleadings designated "Defendants' and Cross-Plaintiffs' Answer to Plaintiff's Second Amended Original Petition";

(7) That all costs of court in connection with the above styled and numbered cause are adjudged and taxed against James H. Quarles, individually and as trustee of the Estate of James H. Quarles, and E. A. Hyland, individually and as trustee.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that all other and further relief prayed for by any of the parties hereto which is not specifically granted herein, be and the same is hereby denied.

For all of which shall issue execution and all other appropriate writs of this Court in enforcement of this judgment.

To which actions and rulings of the court James H. Quarles, individually and as trustee of the Estate of James H. Quarles, did in open court duly accept.

Entered this ____ day of _____, 1974.

JOHN SNELL, JR.
Presiding Judge

APPROVED AS TO FORM:

FULBRIGHT & CROOKER

By: /s/ SIM LAKE
Sim Lake
Bank of the Southwest Building
Houston, Texas 77002

KAMP, LASWELL & POPE

By: /s/ T. TURNER POPE
T. Turner Pope
1200 Milam
Houston, Texas 77002

/s/ JOHN T. McKELLER
John T. McKeller
2626 Westheimer
Houston, Texas

MINTER & MAHON

By: /s/ DAVID N. GRAY
David N. Gray
1453 Mellie Esperson Bldg.
Houston, Texas 77002

APPENDIX G

REQUEST TO CLERK OF THE COURT OF CIVIL APPEALS FOR THE FOURTEENTH JUDICIAL DISTRICT TO PREPARE AND FORWARD RECORD

January 21, 1976

Mrs. Thelma Mueller
Clerk of the Court of Civil Appeals
for the Fourteenth District of Texas

Mrs Mueller this is a request for you to prepare a certified copy of each opinion and order or judgment in your cause number 1164, Supreme Court number B-5489 and 152nd District Court number 865,598.

This is also a request that you forward the complete record of all proceedings in the aforementioned cause numbers styled Goodson v. Quarles or vice versa, to be used on the appeal to the United States Supreme Court.

All records are to be sent to the Clerk of the United States Supreme Court for filing.

Thanking you,

/s/ JAMES H. QUARLES